IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 3692 OF 2003
IN
INCOME TAX APPEAL (LDG.) NO. 1119 OF 2003

The Commissioner of Income-tax. ... Appellant.

V/s.

M/s.The Maharashtra Agro Industries Development Corporation Ltd. ... Respondent.

A.D.Kango for the appellant.

Ms.Aasifa Khan i/b. A.J.Patil and S.R.Mody for the respondent.

CORAM : DR.S.RADHAKRISHNAN and V.C.DAGA, JJ.

DATED : 11th June 2007.

P.C. :

. Heard learned counsel for the appellant and learned counsel for the respondent. Perused notice of motion and affidavit filed in support thereof.

2. By this notice of motion, the appellant is seeking condonation of 228 days in filing appeal. The explanation for delay given by the appellant in the original affidavit in support dated 10th December, 2003 is thus:-

> The delay has occurred as a result of restructuring of the department. In order to

> streamline the work, the department has undergone major restructuring. The assessees are being identified as per the municipal limits. The case records are accordingly transferred from one charge to another and reassigned. It is on account of these reasons that limitation issue was lost sight off. Different officers have to acquaint themselves with new cases received by them under their charge and proceed from there. It is on account of these factors that the delay has occurred.

3. The above is a routine and stereotype reason furnished by the Revenue in almost all the applications for condonation of delay though restructuring of the department has actually taken place in the year 2001 whereas this appeal is filed in the year 2003. The reason given is incorrect rather false to the knowledge of the department. It is for this reason that when the matter came up before this Court on 26th February, 2004, time was granted to file better affidavit. Accordingly so called better affidavit of Shri Samir Tekriwal, Deputy Commissioner of Income-Tax, Circle-6(3) dated 17th March, 2004 was filed; wherein also the appellant has not explained at all with regard to the delay from 29th April, 2003 when the file was sent to the Ministry of Law and, then, thereafter the draft of memo of appeal was received in August, 2003. The appellant was to explain the delay between 29th April, 2003 to August, 2003 and from August, 2003 to 10th December, 2003. Accordingly, again, time was sought to file further affidavit. Further affidavit of Shri T.Sankar,

Assistant Commissioner of Income Tax- City 6(3) is filed. However, even the said affidavit does not even deal with the aspect of the delay between 29th April, 2003 to 10th December, 2003. The approach of the appellant- Revenue is totally casual and callous. This attitude of the department is being noticed daily in number of cases with no improvement. This Court cannot show more indulgence than what was shown in this case and number of such other cases. Revenue cannot be given any special treatment. All litigants before this Court are to be treated similarly. In spite of this, we, in our opinion, have given much latitude which the appellant- Revenue failed to encash.

4. In the above circumstances, we are left with no alternative but to dismiss the notice of motion for want of sufficient cause in filing the appeal belatedly.

5. In the result, notice of motion stands dismissed. In view of dismissal of notice of motion, appeal papers be consigned to record.

(V.C.DAGA, J.) **(DR.S.RADHAKRISHNAN, J.)**